**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**
**WRIT PETITION NO.818 OF 2006**

Maxell Recording Media Energy (India) Pvt. Ltd. (Formerly known as M/s.Rushnit Eximp Pvt.Ltd. .. Petitioner

V/s

Union of India & Ors. .. Respondents

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Shri.S.V.Kantawala with Shri.Yogesh M.Rohira for the Petitioner.
Shri.P.S.Jetly with Shri.K.B.Rao for the Respondents.

**WITH**

**WRIT PETITION NO.819 OF 2006**

Shminit Infrastructures Ltd. .. Petitioner

V/s

Union of India & Ors. .. Respondents

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Shri.S.V.Kantawala with Shri.Yogesh M.Rohira for the Petitioner.
Shri.P.S.Jetly with Shri.C.J.Joy for the Respondents.

**CORAM : DR.S.RADHAKRISHNAN &**
**J.P.DEVADHAR, JJ.**
**DATE : 21ST FEBRUARY, 2006.**

**P.C.:**

1. Heard the learned Counsel for the Petitioners and the learned Counsel for the Respondents. By these petitions the petitioners are challenging the order dated 7th December, 2005 passed by the CESTAT refusing to modify its earlier order of pre-deposit of 50% of the duty involved. We have perused the said order, specially the paragraph Nos.3 and 4. The Tribunal has considered the merits of the case and found that there

is no case made out for grant of unconditional stay. Since the issue is not covered by any earlier decisions and the Petitioner had not pleaded any financial hardship, the Tribunal has directed the Petitioner to make pre-deposit of Rs.50% of the duty. We do not find any infirmity in the order passed by the Tribunal.

2. The learned Counsel for the Petitioners brought to our notice the judgment of the Allahabad High Court in **I.T.C. Ltd. Vs. Commissioner (Appeals), Cus. & C., Meerut-I, 2005(184) E.L.T. 347 (All.)**. In that case the Lower Authority had only considered the financial aspect and had not gone with the merits and hence the aforesaid judgment will not apply to the present case. The learned Counsel for the Petitioner also relied on the judgment of the Hon'ble Supreme Court in **Mirah Exports Pvt. Ltd. Vs. Collector of Customs - 1998 (98) - E.L.T. 3 (S.C.)** which deals with the merits of the matter. The said judgment will be relevant at the time of the final hearing before the CESTAT. We do not find anything erroneous in the order impugned in the petitions.

Both the petitions stand dismissed.

**(DR.S.RADHAKRISHNAN,J.)**

**(J.P.DEVADHAR,J.)**